

## Article 41.

### Personal Education Savings Accounts.

#### **§ 115C-590. North Carolina Personal Education Savings Account Program established.**

There is established the North Carolina Personal Education Savings Accounts Program to provide the option for a parent to better meet the individual educational needs of the parent's child. (2017-57, s. 10A.4(a).)

#### **§ 115C-591. Definitions.**

The following definitions apply in this Article:

- (1) Authority. – Defined in G.S. 116-201.
- (2) Division. – The Division of Nonpublic Education, Department of Administration.
- (3) Eligible student. – A student residing in North Carolina who has not yet received a high school diploma and who meets all of the following requirements:
  - a. Is eligible to attend a North Carolina public school pursuant to G.S. 115C-366.
  - b. Has not enrolled in a postsecondary institution in a matriculated status eligible for enrollment for 12 hours of academic credit.
  - c. Is a child with a disability, as defined in G.S. 115C-106.3(1), including, for example, intellectual disability, hearing impairment, speech or language impairment, visual impairment, serious emotional disturbance, orthopedic impairment, autism, traumatic brain injury, other health impairments, specific learning disability, or disability as may be required to be included under IDEA.
  - d. Has not been placed in a nonpublic school or facility by a public agency at public expense.
- (4) Nonpublic school. – A school that meets the requirements of Part 1, 2, or 3 of Article 39 of this Chapter, as identified by the Division.
- (5) Parent. – A parent, legal guardian, or legal custodian of an eligible student.
- (5a) Part-time student. – A child enrolled part time in a public school and part time in a nonpublic school that exclusively provides services for children with disabilities.
- (6) Personal Education Savings Account or PESA. – A bank account provided to a parent for the purpose of holding scholarship funds awarded by the Authority for an eligible student to be used for qualifying education expenses under G.S. 115C-595. (2017-57, s. 10A.4(a); 2018-2, s. 6(a), (b).)

#### **§ 115C-592. Award of scholarship funds for a personal education savings account.**

(a) Application Selection. – The Authority shall make available no later than February 1 of each year applications to eligible students for the award of scholarship funds for a personal education savings account to be used for qualifying education expenses to attend a nonpublic school. Information about scholarship funds and the application process shall be made available

on the Authority's Web site. Applications shall be submitted electronically. Beginning March 15, the Authority shall begin selecting recipients for scholarships according to the following criteria:

- (1) First priority shall be given to eligible students who were awarded scholarship funds for a PESA during the previous school year if those students have applied by March 1.
- (2) After funds have been awarded to prior recipients as provided in subdivision (1) of this subsection, any remaining funds shall be used to award scholarship funds for a PESA for all other eligible students.

(b) **Scholarship Awards.** – Scholarships shall be awarded each year for an amount not to exceed nine thousand dollars (\$9,000) per eligible student for the fiscal year in which the application is received, except for eligible part-time students, who shall be awarded scholarships each year for an amount not to exceed four thousand five hundred dollars (\$4,500) per eligible student for the fiscal year in which the application is received. Recipients shall receive scholarship funds deposited in equal amounts to a PESA in each quarter of the fiscal year. The first deposit of funds to a PESA shall be subject to the execution of the parental agreement required by G.S. 115C-595. The parent shall then receive a debit card or an electronic account with the prepaid funds loaded on the card or in the electronic account at the beginning of the fiscal year. After the initial disbursement of funds, each subsequent, quarterly disbursement of funds shall be subject to the submission by the parent of an expense report. The expense report shall be submitted electronically and shall include documentation that the student received an education, as described in G.S. 115C-595(a)(1), for no less than 35 days of the applicable quarter. The debit card or the electronic account shall be renewed upon the receipt of the parental agreement under G.S. 115C-595 for recipients awarded scholarship funds in subsequent fiscal years. Any funds remaining on the card or in the electronic account at the end of the fiscal year may be carried forward to the next fiscal year if the card or electronic account is renewed. Any funds remaining on the card or in the electronic account if an agreement is not renewed shall be returned to the Authority.

(c) Eligibility for the other scholarship programs is provided for as follows:

- (1) An eligible student under this Article may receive, in addition to a PESA, a scholarship under Part 2A of Article 39 of this Chapter.
- (2) An eligible student under this Article may receive, in addition to a PESA and a scholarship under Part 2A of Article 39 of this Chapter, a scholarship under the special education scholarship program for children with disabilities pursuant to Part 1H of Article 9 of this Chapter, only if that student has one or more of the following disabilities:
  - a. Autism.
  - b. Developmental disability.
  - c. Hearing impairment.
  - d. Moderate or severe intellectual disability.
  - e. Multiple, permanent orthopedic impairments.
  - f. Visual impairment.

(d) **Applications Not Public Records.** – Applications for scholarship funds and personally identifiable information related to eligible students receiving funds shall not be a public record under Chapter 132 of the General Statutes. For the purposes of this section, personally identifiable information means any information directly related to a student or members of a student's household, including the name, birthdate, address, Social Security number, telephone number,

e-mail address, or any other information or identification number that would provide information about a specific student or members of a specific student's household.

(e) Establishment of Initial Eligibility. – An applicant may demonstrate for initial eligibility that the applicant is a child with a disability, as required by G.S. 115C-591(3)c., in either of the following ways:

- (1) The child has been assessed by a local education agency and determined to be a child with a disability and that outcome is verified by the local education agency on a form provided to the Authority.
- (2) The child was initially assessed by a local education agency and determined to be a child with a disability and, following receipt of a scholarship awarded pursuant to Part 1H of Article 9 of this Chapter, was determined to have continuing eligibility, as provided in G.S. 115C-112.6(c)(2), by the assessing psychologist or psychiatrist. Both the initial verification from the local education agency and the continuing verification by the assessing psychologist or psychiatrist shall be provided on a form to the Authority. (2017-57, s. 10A.4(a); 2018-2, s. 6(c); 2018-5, s. 10A.1(f).)

#### **§ 115C-593. Student continuing eligibility.**

After the initial disbursement of funds, the Authority shall ensure that the student's continuing eligibility is assessed at least every three years by one of the following:

- (1) The local education agency. – The local education agency shall assess if the student continues to be a child with a disability and verify the outcome on a form to be provided to the Authority.
- (2) A licensed psychologist with a school psychology focus or a psychiatrist. – The psychologist or psychiatrist shall assess, after review of appropriate medical and educational records, if the education and related services received by the student in the nonpublic school setting have improved the child's educational performance and if the student would continue to benefit from placement in the nonpublic school setting. The psychologist or psychiatrist shall verify the outcome of the assessment on a form to be provided to the Authority. (2017-57, s. 10A.4(a).)

#### **§ 115C-594. Verification of eligibility.**

(a) Verification of Information. – The Authority may seek verification of information on any application for the award of scholarship funds for a personal education savings account. The Authority shall select and verify six percent (6%) of applications annually, including those with apparent errors on the face of the application. The Authority shall establish rules for the verification process. If a household fails to cooperate with verification efforts, the Authority shall revoke the award of scholarship funds for a PESA for the eligible student.

(b) Access to Information. – Household members of applicants for the award of scholarship funds for a PESA shall authorize the Authority to access information needed for verification efforts held by other State agencies, including the Department of Health and Human Services and the Department of Public Instruction. (2017-57, s. 10A.4(a).)

#### **§ 115C-595. Parental agreement; use of funds.**

(a) Parental Agreement. – The Authority shall provide the parent of a scholarship recipient with a written agreement, applicable for each year the eligible student receives scholarship funds under this Article, to be signed and returned to the Authority prior to receiving the scholarship funds. The agreement shall be submitted to the Authority electronically. The parent shall not designate any entity or individual to execute the agreement on the parent's behalf. A parent or eligible student's failure to comply with this section shall result in a forfeit of scholarship funds and those funds may be awarded to another eligible student. The parent shall agree to the following conditions in order to receive scholarship funds under this Article:

- (1) Use at least a portion of the scholarship funds to provide an education to the eligible student in, at a minimum, the subjects of English language arts, mathematics, social studies, and science.
- (2) Unless the student is a part-time eligible student, release a local education agency in which the student is eligible to attend under G.S. 115C-366 of all obligations to educate the eligible student while the eligible student is receiving scholarship funds under this Article. A parent of a student, other than a part-time eligible student, who decides to enroll the student into the local education agency or other North Carolina public school during the term of the agreement shall notify the Authority to request a release from the agreement and shall return any unexpended funds to the Authority.
- (3) Use the scholarship funds deposited into a personal education savings account only for the following qualifying education expenses of the eligible student:
  - a. Tuition and fees for a nonpublic school that meets the requirements of Part 1 or Part 2 of Article 39 of this Chapter and is subject to the requirements of G.S. 115C-562.5.
  - b. Textbooks required by a nonpublic school.
  - c. Tutoring and teaching services provided by an individual or facility accredited by a State, regional, or national accrediting organization.
  - d. Curricula.
  - e. Fees for nationally standardized norm-referenced achievement tests, advanced placement tests, or nationally recognized college entrance exams.
  - f. Fees charged to the account holder for the management of the PESA.
  - g. Fees for services provided by a public school, including individual classes and extracurricular programs.
  - h. Premiums charged to the account holder for any insurance or surety bonds required by the Authority.
  - i. Educational therapies from a licensed or accredited practitioner or provider.
  - j. Educational technology defined by the Authority as approved for use pursuant to Part 1H of Article 9 of this Chapter.
  - k. Student transportation, pursuant to a contract with an entity that regularly provides student transportation, to and from (i) a provider of education or related services or (ii) an education activity.
- (4) Not use scholarship funds for any of the following purposes:

- a. Computer hardware or other technological devices not defined by the Authority as educational technology approved for use pursuant to Part 1H of Article 9 of this Chapter.
- b. Consumable educational supplies, including paper, pen, or markers.
- c. Tuition and fees at an institution of higher education, as defined in G.S. 116-143.1, or a private postsecondary institution.
- d. Tuition and fees for a nonpublic school that meets the requirements of Part 3 of Article 39 of this Chapter.

(b) No Refunds to an Account Holder. – A nonpublic school or a provider of services purchased under subsection (a) of this section shall not refund or rebate any scholarship funds to a parent or eligible student in any manner. The parent shall notify the Authority if such a refund is required.

(c) Repealed by Session Laws 2018-5, s. 38.10(m), effective for taxable years beginning on or after January 1, 2018. (2017-57, s. 10A.4(a); 2018-2, s. 6(d); 2018-5, s. 38.10(m).)

#### **§ 115C-596. Identification of nonpublic schools and distribution of personal education savings account information.**

(a) List of Nonpublic Schools. – The Division shall provide annually by February 1 to the Authority a list of all nonpublic schools operating in the State that meet the requirements of Part 1, 2, or 3 of Article 39 of this Chapter.

(b) Information on PESAs to the Division. – The Authority shall provide information about personal education savings accounts to the Division. The Division shall provide information about PESAs to all qualified nonpublic schools on an annual basis. (2017-57, s. 10A.4(a).)

#### **§ 115C-597. Administration.**

(a) Rules and Regulations. – The Authority shall establish rules and regulations for the administration of the program, including the following:

- (1) The administration and awarding of scholarship funds, including a lottery process for the selection of recipients within the criteria established by G.S. 115C-592(a), if necessary.
- (2) Requiring a surety bond or insurance to be held by account holders.
- (3) Use of the funds and the reporting of expenditures.
- (4) Monitoring and control of spending scholarship funds deposited in a personal education savings account.

(b) Contract for Management of PESAs. – The Authority may contract with a private financial management firm or institution to manage PESAs in accordance with this Article.

(c) Annual Audits. – The Authority shall conduct annual audits of PESAs and may audit a random sampling of PESAs as needed to ensure compliance with the requirements of this Article. The Authority may contract with an independent entity to conduct these audits. The Authority may remove a parent or eligible student from the program and close a personal education savings account for failure to comply with the terms of the parental agreement, for failure to comply with applicable laws, or because the student is no longer an eligible student.

(d) Administration Costs. – Of the funds allocated to the Authority to award scholarship funds under this Article, the Authority may retain up to two hundred fifty thousand dollars (\$250,000) each fiscal year for administrative costs associated with the program, including

contracting with non-State entities for administration of certain components of the program. (2017-57, s. 10A.4(a).)

**§ 115C-598. Reporting requirements.**

The Authority shall report annually, no later than October 15, to the Joint Legislative Education Oversight Committee on the following information from the prior school year:

- (1) Total number, grade level, race, ethnicity, and sex of eligible students receiving scholarship funds.
- (2) Total amount of scholarship funding awarded.
- (3) Number of students previously enrolled in public schools in the prior semester by the previously attended local education agency.
- (4) Nonpublic schools in which scholarship recipients are enrolled, including numbers of scholarship recipients at each nonpublic school.
- (5) The number of substantiated cases of fraud by recipients and the number of parents or students removed from the program for noncompliance with the provisions of this Article. (2017-57, s. 10A.4(a); 2018-5, s. 10A.1(g).)